

Internal Revenue Service

Central Region

Cincinnati
Appeals

Department of the Treasury

P.O. Box 2026
Cincinnati, Ohio 45201

DATE: JUN 30 1993

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

[REDACTED]

RE: Application for Recognition of Exemption
Under Section 501(c)(3) of the Internal Revenue Code

Dear Sir or Madam:

This is our final adverse determination as to your exempt status under section 501(c)(3) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

You are not organized and operated exclusively for one or more tax exempt purposes as defined in section 501(c)(3) of the Code. More than an insubstantial part of your activities are not in furtherance of an exempt purpose. You serve a private rather than a public interest and are operated for the benefit of designated individuals and the persons by whom you were created.

Contributions to your organization are not deductible under Code section 170.

You are required to file Federal income tax returns on form 1120 for any years which are still open under the statute of limitations. Based on the financial information you furnished, it appears that returns should be filed for the years 1988 through the present. You should file these returns with the key district director, EP/EO division with 30 days from the date of this letter, unless a request for an extension of time is granted. Processing of income tax returns will not be delayed because you have filed a petition for a declaratory judgement under Code section 7428. You should file returns for later tax years with the appropriate service center shown in the instructions for those returns.

If you decide to contest this determination under the declaratory judgement provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed within 90 days from the date this determination was mailed to you.

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Contact the Clerk of the appropriate court for rules for filing petitions for declaratory judgment.

We will notify the appropriate State officials of this action, as required by Code section 6104(c).

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,


Associate Chief, Appeals
Cincinnati

cc:

Internal Revenue Service
District Director

Department of the Treasury
P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number:

Refer Reply to:

EP/EO

Employer Identification Number:

Date: AUG 11 1992

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(3) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a trust or Form 1120 if you are a corporation or an unincorporated association. Contributions to you are not deductible under section 170 of the Code.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

[REDACTED]

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that:

A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within the time specified, this will become our final determination. In that event, appropriate State officials will be notified of this action in accordance with the provisions of section 6104(c) of the Code.

Sincerely yours,

[REDACTED]

District Director

Enclosures: 3

Enclosure I

[REDACTED]

You were incorporated on [REDACTED] to bind Christian musical artists and groups as one to efficiently spread the Gospel of Jesus Christ. Your Bylaws indicate you will foster interest among the general public in gospel music and will act as an agency for organizing and promoting gospel groups and singers. You further state that [REDACTED] "...shall act as an umbrella under which the different divisions in the Association may organize to facilitate the development of their respective needs and interests."

The information contained in your application and ensuing correspondence indicates your chief purpose is to support and promote gospel music in [REDACTED] while providing greater opportunities and success for all gospel singers who wish to further their music ministries. You arrange for your members to sing at malls during the holiday season, nursing homes and senior citizen centers, the [REDACTED] State Fair gospel pavilion, and numerous engagements for a variety of groups and churches. You connect churches and other organizations with members of your organization. You provide churches with a directory which lists the members' names and descriptions of their style of gospel music.

Membership in your organization is open to persons and groups who profess to be Christians and desire to spread the gospel. Membership fees are \$[REDACTED] per year. Prospective members are required to go through an interview, audition or submit a demonstration tape for the directors' review, and provide references from a recognized church. According to the [REDACTED] services & benefits brochure, members receive membership cards & packets, [REDACTED] newsletters, and [REDACTED] directory listing, and discounts on various services. The discount services include discounts on [REDACTED] artists' tapes and records, resume services, hotels & resorts, warehouse club, floral services, printing services and recording services of [REDACTED]. In addition, members have access to the [REDACTED] musician pool, bulk rate mailing rights, [REDACTED]'s legal consultant and chaplain, [REDACTED] logo, advertising, bookings & stand-in bookings, tax exempt status for [REDACTED] fees/donations and fellowship with Christian artists. Members are also provided a listing of performance opportunities. The musician pool is a listing of members who volunteer their musical talents and time when needed to support the projects of fellow members.

Income of the organization is derived from membership dues, sale of t-shirts, food and candy, and donations. [REDACTED] incurs advertising expenses for its members by running promotions in the [REDACTED] publication. The promotions contain information as to when and where members will be giving performances.

Your application indicates that your organization connects your members with churches and other groups desiring gospel singers for their program or event. You do not charge churches or organizations for this service. Singers and groups are free to enter into contracts with the sponsoring group as it is not the purpose of [REDACTED] to secure paid engagements for members.

[REDACTED]

Section 501(c)(3) of the Code provides for the exemption from Federal income tax of corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

Section 1.501(c)(3)-1(a)(1) of the Regulations states that in order to qualify under section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more exempt purposes. If an organization fails to meet either the organizational or operational test, it is not exempt.

Section 1.501(c)(3)-1(a)(2) of the Regulations states that the term "exempt purpose or purposes", means any purpose or purposes specified in section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(b)(1)(i) of the Regulations states that an organization is organized exclusively for one or more exempt purposes only if its articles of organization:

- (a) Limit the purposes of such organization to one or more exempt purposes; and
- (b) Do not expressly empower the organization to engage, otherwise than as an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regulations states that an organization is not operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. It must not be operated for the benefit of designated individuals or the persons who created it.

Revenue Ruling 61-170, 1961-2 C.B. 112 describes an association composed of professional private duty nurses and practical nurses which support and operate a nurses' registry. The registry was created to provide greater employment opportunities for its members. Exemption was denied to this organization under section 501(c)(3) because it is not organized and operated exclusively for charitable purposes. The organization is primarily engaged in the performance of personal services by operating an employment service for the benefit of its members.

Revenue Ruling 80-287, 1980-2 C.B. 185 describes a lawyer referral service which was denied exemption because its activities did not serve an exclusively charitable purpose within section 501(c)(3) of the Code. "It is a clearly established principle of the law of charity that a purpose is not charitable unless it is directed to the public benefit." "As a general rule, providing services of an ordinary commercial nature in a community, even though the undertaking is conducted on a nonprofit basis, is not regarded as conferring a charitable benefit on the community."

Based on the information provided, you are not organized or operated exclusively for purposes within section 501(c)(3) of the Code. You fail to meet the organizational test because your Articles of Incorporation do not indicate that you are organized for exclusively charitable, educational, and religious purposes within the meaning of section 501(c)(3) of the Code. In addition, your Articles do not contain a dissolution clause which provides that upon dissolution, all remaining assets will be distributed for exclusively charitable, educational and religious purposes within the meaning of section 501(c)(3) of the Code.

You do not meet the operational test under section 501(c)(3) of the Code because you provide particular services to your members. Those particular services include the membership directory, musician listing, paying for advertising on behalf of your members, promotional and social activities, bookings, discount at [REDACTED] and discounts on various services such as resume, printing artwork/design and florists. Your activities are not exclusively charitable, educational and/or religious within the meaning of section 501(c)(3) of the Code because they serve the private interests of your members. Your activities constitute the provision of particular services to your members.

Accordingly, we have concluded that you do not qualify for exemption from Federal income tax under section 501(c)(3) of the Code and contributions to you are not deductible by donors under section 170 of the Code because you fail to meet the organizational and operational tests under section 501(c)(3) of the Code.